

## Document Log Item

Addressing	
<b>From</b>	<b>To</b>
James Chang/R9/USEPA/US	david.green@afropa.pentagon.af.mil ssoloyan@mitretek.org david green, susan soloyanis
<b>CC</b>	<b>BCC</b>
Jehiel Cass <jcass@rb6v.swrcb.ca.gov>	Sophia Serda/R9/USEPA/US@EPA
<b>Description</b> <span>Form Used: Memo</span>	
<b>Subject</b>	<b>Date/Time</b>
D-8 FOST RTCs	01/22/2007 07:49 AM
<b># of Attachments</b>	<b>Total Bytes</b>
0	4,405
<b>NPM</b>	<b>Contributor</b>
<b>Processing</b>	
<b>Comments</b>	

Body

### Document Body

Hi Dave and Susan,  
Here's EPA's review comments keyed to AF's subject RTCs:

1. Comment #2.EPA's regulatory concurrence is required for a 120(h)(4) CERFA Category 1 Parcel (ECC 1). The FOST must be revised to reflect this statutory requirement. The property may be transferred as ECC 3, not ECC 1. EPA cannot concur that the property is ECC 1 because Dieldrin, Lead Based Paint and Asbestos are present on the parcel.
2. Comment #3.EPA needs to see the draft deed language prior to its recording. Accordingly, please add "(and prior to recordation)" after "upon the completion" into the AF's response. EPA believes that the known, but uncharacterized pesticide contamination poses a potential risk to

human health and the environment, and that the AF is thus obligated to take affirmative steps to address that risk. EPA believes that residential use restrictions on the parcel are warranted.

3. Comment #7. The AF's response only addresses the first concern expressed in EPA's comment. The remainder of EPA's comment remains relevant, as follows: "EPA has consistently maintained that Section 107 (i) does not limit the authority or obligation of the Air Force to respond to pesticide-related contamination. It is our position that where contamination resulting from pesticide application poses a risk to human health or the environment, such contamination must be addressed by the Air Force. Accordingly, the AF should conduct adequate soil sampling to evaluate the risks from pesticides." If the AF does not plan to conduct such sampling, and the LRA is willing to accept the parcel without the recommended sampling, EPA's Comment #7 should be highlighted as an unresolved comment.

EPA cannot hold the LRA liable for the dieldrin contamination left in place if it meets the requirements of Section 101(40) of CERCLA (defining "bona fide prospective purchasers"). However, if the LRA or its successors do anything that makes the situation worse, they can be held liable. AF should provide a disclosure statement in the deed for the dieldrin contamination left in place as there are potential inhalation risks for industrial workers if they disturb the contaminated areas.

\*\*\*\*\*

James Chang  
Phone: 415.972.3193 Fax: 415.947.3526